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8 **BEFORE THE**
9 **STRUCTURAL PEST CONTROL BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2016-8

13 **ROBERT K. BRUTON**
14 **1049 Dell Avenue**
15 **Campbell, CA 95008**

DEFAULT DECISION AND ORDER

16 **Field Representative License No. FR 45977,**
17 **Branches 2 and 3**

[Gov. Code, §11520]

18 Respondent.

19 **FINDINGS OF FACT**

20 1. On or about July 28, 2015, Complainant Susan Saylor, in her official capacity as the
21 Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer
22 Affairs, filed Accusation No. 2016-8 against Robert K. Bruton (Respondent) before the Structural
23 Pest Control Board. (Accusation attached as Exhibit A.)

24 2. On or about September 20, 2010, the Structural Pest Control Board (Board) issued
25 Field Representative License No. FR 45977, Branches 2 and 3, to Respondent. The Field
26 Representative License was in full force and effect at all times relevant to the charges brought in
27 Accusation No. 2016-8 and will expire on June 30, 2016, unless renewed.

28 3. On or about August 5, 2015, Respondent was served by Certified and First Class Mail
copies of the Accusation No. 2016-8, Statement to Respondent, Notice of Defense, Request for

1 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
2 Respondent's address of record which, pursuant to Business and Professions Code section 136, is
3 required to be reported and maintained with the Board. Respondent's address of record was and
4 is: 1049 Dell Avenue, Campbell, CA, 95008.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. On or about August 18, 2015, the aforementioned documents were returned by the
9 U.S. Postal Service marked "Not Deliverable As Addressed, Unable To Forward." The address
10 on the documents was the same as the address on file with the Board. Respondent failed to
11 maintain an updated address with the Board and the Board has made attempts to serve the
12 Respondent at the address on file. Respondent has not made himself available for service and
13 therefore, has not availed himself of his right to file a notice of defense and appear at hearing.

14 6. Government Code section 11506 states, in pertinent part:

15 (c) The respondent shall be entitled to a hearing on the merits if the respondent
16 files a notice of defense, and the notice shall be deemed a specific denial of all parts
17 of the accusation not expressly admitted. Failure to file a notice of defense shall
18 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
19 may nevertheless grant a hearing.

20 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
21 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
22 2016-8.

23 8. California Government Code section 11520 states, in pertinent part:

24 (a) If the respondent either fails to file a notice of defense or to appear at the
25 hearing, the agency may take action based upon the respondent's express admissions
26 or upon other evidence and affidavits may be used as evidence without any notice to
27 respondent.

28 9. Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on

1 file at the Board's offices regarding the allegations contained in Accusation No. 2016-8, finds that
2 the charges and allegations in Accusation No. 2016-8, are separately and severally, found to be
3 true and correct by clear and convincing evidence.

4 10. Taking official notice of its own internal records, pursuant to Business and
5 Professions Code section 125.3, it is hereby determined that the reasonable costs amount for
6 Investigation and Enforcement is \$1,145.00.

7 **DETERMINATION OF ISSUES**

8 1. Based on the foregoing findings of fact, Respondent Robert K. Bruton has subjected
9 his Field Representative License No. FR 45977, Branches 2 and 3, to discipline.

10 2. The agency has jurisdiction to adjudicate this case by default.

11 3. The Structural Pest Control Board is authorized to revoke Respondent's Field
12 Representative License based upon the violations alleged in the Accusation which are supported
13 by the evidence contained in the Default Decision Evidence Packet in this case.

14 **ORDER**

15 IT IS SO ORDERED that Field Representative License No. FR 45977, Branches 2 and 3,
16 heretofore issued to Respondent Robert K. Bruton, is revoked.

17 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
18 written motion requesting that the Decision be vacated and stating the grounds relied on within
19 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
20 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

21 This Decision shall become effective on April 9, 2016.

22 It is so ORDERED March 10, 2016

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24 
25 FOR THE STRUCTURAL PEST CONTROL
26 BOARD
27 DEPARTMENT OF CONSUMER AFFAIRS

28 Attachment:
Exhibit A: Accusation No. 2016-8